

BARNT DE KLYN—HEIR OF.

[To accompany Bill H. R. No. 429.]

MARCH 23, 1860.

Mr. DUELL, from the Committee on Revolutionary Claims, submitted the following

REPORT.

The Committee on Revolutionary Claims, to whom was referred the petition of Catherine Beatty, only surviving child of Barnt De Klyn, report:

That this claim was favorably reported on the 29th day of May, 1858; that report, with the evidence, has been examined, and your committee entirely concurring with that report adopt it, and report a bill in all respects the same as the one then reported.

The following is the report made at the former session of Congress:

IN THE HOUSE OF REPRESENTATIVES, May 29, 1858.

Mr. CLAWSON, from the Committee on Revolutionary Claims, submitted the following report:

The Committee on Revolutionary Claims, to whom was referred the petition of Catherine Beatty, praying to be paid certain loan office certificates, having had the same under consideration, report:

That the petitioner represents herself as the only surviving child of Barnt De Klyn and Mary De Klyn, late of the township of Nottingham, in the now county of Mercer, in the State of New Jersey, and that she is solely interested in a claim which the said Barnt De Klyn had against the United States, as the holder and owner of certain loan office certificates which were presented at the office of the Auditor of the Treasury for renewal under the act of Congress the 21st April, 1794, and which were not allowed.

It appears, from authentic documents and official records from the Treasury Department, that on the 29th May, 1795, (see Am. State Papers, "Claims," page 258,) there were presented to that department by Robert F. How, for Barnt De Klyn, certificate No. 150, dated July 6, 1779, issued at New York, for the nominal amount of \$4,000; also a certificate No. 6133, of the same date, issued at New York, for

the nominal amount of \$600 ; also a certificate No. 9306, same date, issued at New York, for \$400 ; also a certificate No. 158, dated May 7, 1779, issued at Pennsylvania, for \$400 ; also certificates Nos. 1346 and 1347, dated January 12, 1779, issued at Pennsylvania, for \$1,000 each ; also certificates Nos. 2489 and 2490, dated February 12, 1780, issued at New Jersey, for \$400 each ; also certificate No. 3399, dated October 29, 1778, issued at Georgia, for \$600.

These certificates were issued by authority of the following resolves :

IN CONGRESS, *October 3, 1776.*

“Resolved, That five million of continental dollars be immediately borrowed for the use of the United States, at the annual interest of four per cent. per annum ; that the faith of the United States be pledged to the lenders for the payment of the sums to be borrowed, and the interest arising thereon, and that certificates be given to the lenders, &c.

* * * * *

“That for the convenience of the lenders, a loan office be established in each of the United States, and a commissioner to superintend such office be appointed by the said States, respectively, who are to be responsible for the faithful discharge of their duty in said offices.

“That the business of said commissioners shall be to deliver certificates for all such sums of money as shall be brought into their respective offices, agreeable to these resolutions, which certificates shall be indented and the checks kept in said office ; to keep books in which regular entries shall be made of the sums borrowed, and the time when, and the names of the persons by whom the said sums were lent ; to transmit to the continental treasurer, once a month, an account of the cash in their respective offices ; and to answer all drafts of the treasurer to the amount of the cash which they shall, at any time, have in their hands as aforesaid. That no certificate be issued for a less sum than \$300.

“That the several sums of money to be borrowed shall be repaid at the office where the same was lent at the expiration of three years, and that the annual interest shall likewise be paid at the said office.”

* * * * * (See Journals of Congress, 1776, vol. 1, pages 505, 506.)

“Resolved, That thirteen million of dollars be borrowed on loan office certificates.” * * * * * (See Journals, vol 2, pp. 48, 77.)

“Resolved, That ten million of dollars be borrowed on the credit of the United States, at an annual interest of six per cent., and that loan office certificates of the following denominations be forthwith struck, under the direction of the treasury board.” * * * * * (Journal of Congress, 1778, vol. 2, p. 409.)

The certificates in question were issued under or subsequent to the two last resolves, bearing interest at six per centum annually, the faith of the United States being pledged to the lenders for the payment of the sums to be borrowed, and the interest arising thereon.

It sometimes occurred or happened to the owners or holders of these certificates, while circulating (as they were payable to the bearer) as available currency, that they got lost or destroyed by accident, and Congress on several occasions, by special acts, authorized them to be

renewed on proper indemnification against their reappearance. And so frequently did this occur through the casualties of the war, Congress passed the acts of May 10, 1780, and April 21, 1794, relieving the owners and holders of loan office certificates in cases where the certificates had been destroyed by accident, on proof of their loss and destruction, provided they complied with the terms of the acts, and presented the certificates for renewal on or before the first day of June, 1795, and if satisfactorily supported, the claimants should be entitled to receive certificates of registered debt equal to the specie value of the loan office certificates so proved to have been destroyed.—(See U. S. Statutes at Large, vol. 1, page 354.) From the documents and notes of the Treasury Department it would seem there was a full compliance on the part of the holders of these certificates in question with the foregoing acts, with a single exception, viz: that they were “stated to have been stolen by a servant of the claimant in August, 1785,” and therefore “not within the provisions of the act.” It is claimed that the evidence disclosed something further, viz: that the servant, to rid herself from search, threw them into the fire, which she confessed on her trial, and for which offence, for stealing the personal effects of the claimant, she was convicted of record, and punished by the decree of the supreme court of New Jersey.” But from the decision of the Treasury Department the law provided no appeal, however erroneous the same might have been. The claimants were thereby postponed, and denied the benefits intended to be provided for by the said act of April 21, 1794, and without any remedy to enforce his claim against the United States.

The act entitled “An act respecting loan office and final settlement certificates, indents of interest, and the unfunded or registered debt credited in the books of the treasury,” approved June 12, 1798, (see U. S. Statutes at Large, vol. 1, pages 562, 563,) make no mention of lost or destroyed certificates; nor does the act of March 3, 1795, (to which the before-mentioned act of June 12, 1798, refers,) entitled “An act making further provision for the support of public credit, and for the redemption of the public debt,” make any mention of lost or destroyed loan office certificates that had not been renewed. But with reference to “all certificates, commonly called loan office certificates, final settlements, and indents of interest, which at the time of passing this act shall be outstanding, shall, on or before the first day of January, in the year one thousand seven hundred and ninety-seven, be presented at the office of the Auditor of the Treasury of the United States, for the purpose of being exchanged for other certificates of equivalent value and tenor, or, at the option of the holders thereof, respectively, to be registered at the said office, and returned, &c. * * And any of the said certificates which shall not be presented at the said office within the said time shall be forever after barred or precluded for settlement or allowance.”—(See U. S. Statutes at Large, vol. 1, page 437, § 14.)

It is clear, therefore, that none of the acts of limitations, above referred to, or before or since, can operate as a bar to the present claim. The only act within which this case might have been considered, was the act of 21st April, 1794, and the case having been then presented

by the holder, must save it from the fate these statutes of limitations intended to enforce for neglect to comply with them. At no subsequent period have your committee been able to discover that any provision has been made of a general character for the settlement of lost and destroyed certificates, issuing from the loan offices of the States, arising out of loans for the support of the United States during the revolutionary war; and there being only twelve cases of the kind presented, and not allowed under said act of April 21, 1794, (see American State Papers, Claims, p. 258,) they are inclined strongly to the belief they were left for, as they certainly are proper subjects for, special legislation. In the case of John Holker, who memorialized Congress 1st session of 14th Congress—being one of the disallowed cases referred to in the above number of twelve—the Secretary of the Treasury, A. J. Dallas, in his communication to the Senate, February 26, 1816, says: "The existence of the certificates is proved by the public records." * * "The public records show that the United States are still indebted for the whole of the amount of the lost certificates." * * * "Upon the whole, the Secretary of the Treasury has the honor to conclude this performance of the duty which the Senate has assigned to him with these propositions: 1st. That the loan office certificates constitute a debt of record which the United States have never paid or satisfied. 2d. That the debt has not been barred by the act of limitations in consequence of the lapse of time prescribed on claiming it at the treasury. 3d. That the debt has, nevertheless, been disallowed by the Auditor, because the destruction of the certificates was not advertised and notified in the strict form prescribed by the resolution of the 10th of May, 1780. 4th. But that, under all the circumstances of a contemporaneous, constant and public claim, the memorialist is entitled to the relief solicited from the legislature, upon giving a bond for indemnity."

The Secretary says, also, that the lapse of more than twenty-five years strips the case of all reasonable doubt upon the non-existence of the certificates, whatever may have been the failure of advertising their loss in strict form.—(See Am. State Papers, "Claims," p. 471.)

Your committee have looked to see what has been the action of Congress in similar cases, and they cite the following:

On the petition of William Arnold, Mr. Chappell, from the Committee on Revolutionary Claims, made a favorable report in the case of a renewal of a loan office certificate.—(See 3d session of 13th Congress, House Report, No. 259.) The case of John Delafield, in 1st session of 14th Congress, Mr. Talmadge made a favorable report, accompanied by bill No. 296; and 2d session of 14th Congress, Nos. 325, 426. The case of Benjamin Bird, June 28, 1834, report for renewal of lost certificate. In the case of John Holker, above referred to, Congress directed thirty-seven loan office certificates, amounting to \$21,700, to be paid on indemnity to the satisfaction of the Comptroller of the Treasury.—(See United States Statutes at Large, vol. 6, p. 175.)

But were there no precedent cases where Congress have done justice to this class of claimants, your committee see no reason why they should withhold their mite to preserve the plighted faith of the United States, so positively and solemnly pledged, when the money for which

these certificates issued was paid over to the United States. The United States received the money, and made such use of it as the necessities of the war created. If this claim has ever been paid, the United States have the means of showing it. That it was not allowed when presented, is shown by the record evidence in the treasury. If any principle is held more sacred than another, it is the refunding of borrowed money, and no lapse of time can ever justify the use of the plea of limitations; extreme poverty and total inability through unforeseen casualties may excuse. How the Congress of 1783 regarded this debt may be seen by the following extract from the address to the States, viz:

“The remaining class of creditors is composed partly of such of our fellow-citizens as originally lent to the public the use of their funds, or have since manifested most confidence in their country, by receiving transfers from the lenders, and partly of those whose property has been either advanced or assumed for the public service. To discriminate the merits of these several descriptions of creditors would be a task equally unnecessary and invidious. If the voice of humanity pleads more loudly in favor of some than of others, the voice of policy, no less of justice, pleads in favor of all. A wise nation will never permit those who relieve the wants of their country, or who rely most on its faith, its firmness, and its resources, when either of them is distrusted, to suffer by the event.”

Your committee, in view of the obligations created by these loans, and impressed with the justice of this claim, have agreed to report a bill, and ask its passage.

